

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

GREGORY C. YORK,)	CV 04-140-M-LBE
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
THE UNITED STATES GOVERNMENT,)	
)	
Defendant.)	
_____)	

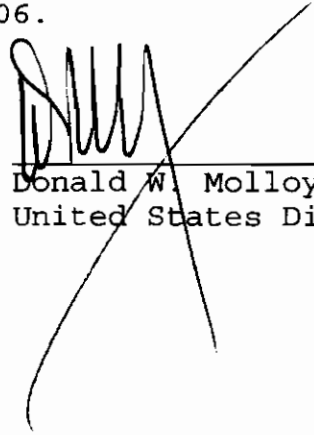
Plaintiff York filed the Complaint in this matter on January 24, 2005, but has not served the Complaint upon the Defendant as required by Rule 4(m), Fed. R. Civ. P. United States Magistrate Judge Leif B. Erickson ordered the Plaintiff to effect service or show cause why his Complaint should not be dismissed. Plaintiff did neither, and Judge Erickson issued Findings and Recommendations concluding that the Complaint should be dismissed without prejudice. Plaintiff has not objected to Judge Erickson's recommendation and so has waived the right to de novo review of the record. 28 U.S.C. § 636(b)(1). This Court will review the Findings and Recommendation for clear error.

McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is

left with a "definite and firm conviction that a mistake has been committed." United States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000).

I can find no clear error with Judge Erickson's Findings and Recommendations and so adopt them in full. It is therefore HEREBY ORDERED pursuant to Rule 4(m), Fed. R. Civ. P. that this matter is DISMISSED WITHOUT PREJUDICE.

DATED this 23rd day of May, 2006.



Donald W. Molloy, Chief Judge
United States District Court